



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

50

| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|---|-------------|----------------------|---------------------|------------------|
| 09/911,414 | 07/23/2001 | Rodney D. Cambridge | NETAP015 | 4138 |
| 28875 | 7590 | 03/25/2005 | EXAMINER | |
| Zilka-Kotab, PC P.O. BOX 721120 SAN JOSE, CA 95172-1120 | | | FERRIS III, FRED O | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 2128 | |

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/911,414

Applicant(s)

CAMBRIDGE, RODNEY D.

Examiner

Fred Ferris

Art Unit

2128

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 July 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 July 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 1/9/02.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. *Claims 1-32 have been presented for examination based on applicant's disclosure filed on 23 July 2001. Claims 1-32 have been rejected by the examiner.*

Drawings

2. *Applicant's drawings submitted on 23 July 2001 have been approved by the examiner.*

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. ***Claims 1-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 6,269,456 issued to Hodges et al in view of U.S. Patent 6,327,594 issued to Van Huben et al.***

Regarding independent claims 1, 20, and 27: Hodges teaches a method, system, and computer code, for maintaining and updating antivirus files within a computer network consisting of user computers, central service computer, and antivirus server. (Abstract, Summary of Invention, Figs. 3, 4, 8, 10, 12) Hodges teaches the elements of the claimed limitations of the present invention as follows:

- method/system/code for maintaining updated antivirus files in computer network with, computer & central service computer having antivirus database, network connected to antivirus server: Hodges teaches updating antivirus files in a computer network (CL4-L53-67) inclusive of a central service computer having the antivirus database (CL15-L22) and a network connected to an antivirus server (CL9-L62 to CL10-L11, Fig. 7).

- receiving new antivirus file (database) at user computer and central service computer and updating the computer's antivirus database: Hodges teaches receiving new antivirus files in a database (CL7-L45-63, Fig. 4) at user computer and central service computer (CL7-L1-3) and subsequently updating the computer's antivirus database (CL9-L53-55, CL9-L62-67, Fig. 7).

memory for temporary antivirus storage: The system disclosed by Hodges is obviously inclusive of memory for temporary storage of antivirus files (the system disclosed in Figs. 3 and 10 are obviously inclusive of RAM memory).

- where the central service computer and user computer are configured to send new antivirus file to other central service computer and user computer to update the antivirus database: Hodges discloses sending new antivirus files to the service computer and user computer in updating the antivirus database (CL7-L1-3, 45-63, CL9-L53-55, 62-67, Figs. 4 and 7).

Hodges does not explicitly disclose comparing databases between a user computer and a host (server) computer system.

Van Huben teaches comparing the databases between central (host) computer and user (client) computer to determine if databases require updating (i.e. new files). (Abstract, Summary, Figs. 3a-4a) Van Huben teaches the elements of the claimed limitations of the present invention as follows:

- comparing antivirus databases of central service computer (application) and user computer to determine if databases contain new antivirus file not contained within the other database: Van Huben teaches comparing databases between central (host) computer and user computer to determine if databases require updating of new files. (CL4-L18-33, especially L29-32)

It would have been obvious to one having ordinary skill in the art at the time the claimed invention was made to modify the teachings of Hodges relating to updating an antivirus database over a network, with the teachings of Van Huben relating to comparing databases between a client and central server, to realize the claimed

invention. An obvious motivation exists since, in this case, the Hodges reference teaches to the Van Huben reference, and the Van Huben reference teaches to the Hodges reference. Specifically, both Hodges and Van Huben teach the maintaining and updating databases and are used in the same technological arena as noted above. Hodges teaches to Van Huben because Hodges discloses that client databases require frequent updating from the central server (See: Hodges CL3-L51). Van Huben teaches to Hodges because Van Huben specifically teaches the means for comparing databases between a central server and a client (user) computer to facilitate updating. (See: Van Huben: CL4-L29-32) Further, the level of skill required by an artisan to realize the claimed limitations of the present invention is clearly established by both references. (See: Hodges/Van Huben, Background) Accordingly, a skilled artisan having access to the teachings of Hodges and Van Huben, would have knowingly modified the teachings of Hodges with the teachings of Van Huben (or visa versa) to realize the claimed elements of the present invention.

Per dependent claim 2-4, and 21-24: Hodges teaches a network with multiple users connected to a central service computer and an antivirus database for obtaining antivirus files (CL7-L1-3, 45-63, CL9-L53-55, 62-67, Figs. 4 and 7).

Per dependent claims 5 and 6: Hodges teaches a central server connected to the Internet and hosting a web site. (CL2-L51, Figs. 8, 10)

Per dependent claims 7-11, 14, 16-18, 24, 25, 31, 32: Hodges teaches notifying server of user update requirements (CL9-L53-55, CL9-L62-67, Fig. 7), new virus

definitions (CL5-41), antivirus signature files (CL8-L51-65, Fig. 5b), automatic file updating (CL5-L29), and version number (CL9-L47, CL16-L27).

Per dependent claims 12-13, 26, 29, and 30: Hodges teaches detecting and cleaning infected data files using newly updated files (CL3-L29-41, Fig. 1).

Per dependent claims 15 and 19: These claims are rendered obvious by the teachings of Van Huben relating to comparing databases between a central server and a client (user) computer to facilitate updating (CL4-L29-32) and hence would have knowingly been incorporated by a skilled artisan using the reasoning previously cited above.

Per dependent claim 28: This claim is rendered obvious by the distribution means disclosed by Hodges that discloses antivirus file distribution by CD-ROM, Internet, etc. (See: CL1-L65 to CL2-L11)

Conclusion

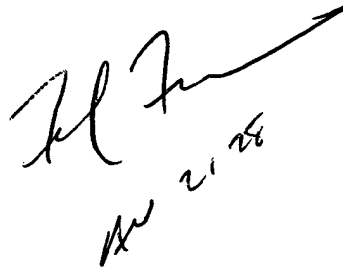
5. *The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Careful consideration should be given prior to applicant's response to this Office Action.*

"Surfing the Net for Software Engineering Notes", M. Doernhoefer, ACM SIGSOFT, Software Engineering Notes, Vol. 26, No. 2, March 2001 teaches antivirus database updating.

U.S. Patent 6,151,643 issued to Chang et al updating client databases.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Ferris whose telephone number is 571-272-3778 and whose normal working hours are 8:30am to 5:00pm Monday to Friday. Any inquiry of a general nature relating to the status of this application should be directed to the group receptionist whose telephone number is 571-272-3700. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jean Homere can be reached at 571-272-3780. The Official Fax Number is: (703) 872-9306

Fred Ferris, Patent Examiner
Simulation and Emulation, Art Unit 2128
U.S. Patent and Trademark Office
Randolph Building, Room 5D19
401 Dulany Street
Alexandria, VA 22313
Phone: (571-272-3778)
Fred.Ferris@uspto.gov
March 19, 2005



Fred Ferris
March 21, 2005